

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

DISTRICT OF NEW MEXICO
2016 JUN 27 PM 4:22
CLERK-LAS CRUCES

ERIK KHAN,

Plaintiff;

vs.

No. 15-CV-1151-MV-SMV

CHRIS BARELA, et. al.,

Defendants.

NOTICE of Exhibits (4th)

ERIK KHAN, Pro Se, hereby notifies the parties of
the following exhibits attached hereto are filed:

- A. Dona Ana County | Dept. of Justice (U.S.)
Contract
- B. Global Corrections Group Inspection Reports
- C. Memorandum and Declaration

DATED: June , 2016
LAS CRUCES, NM

Respectfully,



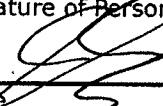
ERIK KHAN #131210S
1850 Copper Loop
LAS CRUCES, NM 88005

Exhibit A

USMS IGA 51-99-0117

**U.S. Department of Justice
United States Marshals Service
Prisoner Operations Division**

**Detention Services
Intergovernmental Agreement**

1. Agreement Number 51-99-0117	2. Effective Date See Block 19	3. Facility Code(s) 6BJ	4. DUNS Number 045612165
5. Issuing Federal Agency United States Marshals Service Prisoner Operations Division 2604 Jefferson Davis Highway Alexandria, VA 22301-1025		6. Local Government Dona Ana County Detention Center 1850 Copper Loop Las Cruces, NM 88005	
7. Appropriation Data 15X1020		8. Local Contact Person Administrator Chris Barela	
		9. Telephone: (575) 647-7616 Fax: (575) 647-7600 Email: chrisb@donaanacounty.org	
Services 10. This agreement is for the housing, safekeeping, and subsistence of Federal detainees, in accordance with content set forth herein.		Estimated Number of Federal Beds 11. Male: 250 Female: 20 Total: 270	Per Diem Rate 12. \$62.00
13a. Optional Guard/Transportation Services to: <input checked="" type="checkbox"/> Medical Facility <input checked="" type="checkbox"/> U.S. Courthouse <input type="checkbox"/> JPATS		14. Guard/Transportation Hourly Rate: \$18.00 Mileage shall be reimbursed by the Federal Government at the General Services Administration (GSA) Federal Travel Regulation Mileage Rate.	
13b. <input type="checkbox"/> Department of Labor Wage Determination			
15. Local Government Certification <i>To the best of my knowledge and belief, information submitted in support of this agreement is true and correct. This document has been duly authorized by the governing authorities of their applying Department or Agency State or County Government and therefore agree to comply with all provisions set forth herein this document.</i>		16. Signature of Person Authorized to Sign (Local) Signature  Print Name M. Sue Padilla, Interim County Manager Title 3-5-13 Date	
17. Federal Detainee Type Authorized <input checked="" type="checkbox"/> Adult Male <input checked="" type="checkbox"/> Adult Female <input checked="" type="checkbox"/> Juvenile Male <input checked="" type="checkbox"/> Juvenile Female	18. Other Authorized Agency User <input checked="" type="checkbox"/> BOP <input checked="" type="checkbox"/> ICE	19. Signature of Person Authorized to Sign (Federal) Signature  Print Name Jackie Gomez Title Grants Specialist Date 3/19/13	

Agreement Number 51-99-0117

Authority	3
Purpose of Agreement and Security Provided	3
Period of Performance and Termination	3
Assignment and Outsourcing of Jail Operations	3
Medical Services.....	4
Receiving and Discharge of Federal Detainees.....	4
Optional Guard/Transportation Services to Medical Facility.....	5
Optional Guard/Transportation Services to U.S. Courthouse.....	6
Optional Guard/Transportation Services to Justice Prisoner and Alien Transportation System (JPATS)	6
Special Notifications.....	7
Special Management Inmates and Suicide Prevention.....	8
Prisoner Rape Elimination Act (PREA).....	8
Service Contract Act	9
Per-Diem Rate.....	9
Billing and Financial Provisions	9
Payment Procedures	10
Hold Harmless.....	11
Disputes.....	11
Inspection of Services.....	11
Modifications.....	12
Litigation	12
Rape Elimination Act Reporting Information	12
	13

Agreement Number 51-99-0117

Authority

Pursuant to the authority of Section 119 of the Department of Justice Appropriations Act of 2001 (Public Law 106-553), this Agreement is entered into between the United States Marshals Service (hereinafter referred to as the "Federal Government") and **Dona Ana County, New Mexico** (hereinafter referred to as "Local Government"), who hereby agree as follows:

Purpose of Agreement and Security Provided

The Federal Government and the Local Government establish this Agreement that allows the United States Marshals Service (USMS) or other authorized agency user as noted in block #18 on page 1 to house federal detainees with the Local Government at the **Dona Ana County Detention Center** (hereinafter referred to as "the Facility") designated in #6 page 1.

The population (hereinafter referred to as "federal detainees,") will include individuals charged with federal offenses and detained while awaiting trial, individuals who have been sentenced and are awaiting designation and transport to a Bureau of Prisons (BOP) facility, and individuals who are awaiting a hearing on their immigration status or deportation.

The Local Government shall accept and provide for the secure custody, safekeeping, housing, subsistence and care of federal detainees in accordance with all state and local laws, standards, regulations, policies and court orders applicable to the operation of the Facility. Federal detainees shall also be housed in a manner that is consistent with federal law and the Core Detention Standards and/or any other standards required by an authorized agency whose detainees are housed by the Local Government pursuant to this Agreement.

The USMS ensures the secure custody, care, and safekeeping of USMS federal detainees. Accordingly, all housing or work assignments, and recreation or other activities for USMS federal detainees are permitted only within secure areas of the building or within the secure external recreational/exercise areas.

At all times, the Federal Government shall have access to the Facility and to the federal detainees housed there, and to all records pertaining to this Agreement, including financial records, for a period going back three (3) years from the date of request by the Federal Government.

Period of Performance and Termination

This Agreement is effective upon the date of signature of the authorized USMS Prisoner Operations Division official, and remains in effect unless inactivated in writing by either party. Either party may terminate this Agreement for any reason with written notice at

Agreement Number 51-99-0117

least thirty (30) calendar days in advance of termination, unless an emergency situation requires the immediate relocation of federal detainees.

Where the Local Government has received a Cooperative Agreement Program (CAP) award, the termination provisions of the CAP prevail.

Assignment and Outsourcing of Jail Operations

The overall management and operation of the Facility housing federal detainees may not be contracted out without the prior express written consent of the Federal Government.

Medical Services

The Local Government shall provide federal detainees with the same level and range of care **inside** the Facility as that provided to state and local detainees. The Local Government is financially responsible for all medical care provided **inside** the Facility to federal detainees. This includes the cost of all medical, dental, and mental health care as well as the cost of medical supplies, over-the-counter medications, and any prescription medications routinely stocked by the Facility which are provided to federal detainees. When possible, generic medications should be prescribed. The cost of all of the above-referenced medical care is covered by the federal per diem rate. However, for specialized medical services not routinely provided within the Facility, such as dialysis, the Federal Government will pay for the cost of that service.

The Federal Government is financially responsible for all medical care provided **outside** the Facility to federal detainees. The Federal Government must be billed directly by outside medical care providers pursuant to arrangements made by the Local Government for outside medical care. The Local Government should utilize outside medical care providers that are covered by the USMS's National Managed Care Contract (NMCC) to reduce the costs and administrative workload associated with these medical services. The Local Government can obtain information about NMCC covered providers from the local USMS District Office. The Federal Government will be billed directly by the medical care provider **not** the Local Government. To ensure that Medicare rates are properly applied, medical claims for federal detainees must be on Centers for Medicare and Medicaid (CMS) Forms so that they can be re-priced to Medicare rates in accordance with the provisions of Title 18 U.S.C. Section 4006. If the Local Government receives any bills for medical care provided to federal detainees outside the Facility, the Local Government should immediately forward those bills to the Federal Government for processing.

All **outside** medical care provided to federal detainees must be pre-approved by the Federal Government except in a medical emergency. In the event of an emergency, the Local Government shall proceed immediately with necessary medical treatment. In such an event, the Local Government shall notify the Federal Government immediately

Agreement Number 51-99-0117

regarding the nature of the federal detainee's illness or injury as well as the types of treatment provided.

Medical care for federal detainees shall be provided by the Local Government in accordance with the provisions of USMS, Publication 100-Prisoner Health Care Standards (www.usmarshals.gov/prisoner/standards.htm) and in compliance with the Core Detention Standards or those standards which may be required by any other authorized agency user. The Local Government is responsible for all associated medical record keeping.

The Facility shall have in place an adequate infectious disease control program which includes testing of all federal detainees for Tuberculosis (TB) within fourteen (14) days of intake.

TB testing shall be accomplished in accordance with the latest Centers for Disease Control (CDC) Guidelines and the result promptly documented in the federal detainee's medical record. Special requests for expedited TB testing and clearance (to include time sensitive moves) will be accomplished through advance coordination by the Federal Government and Local Government.

The Local Government shall immediately notify the Federal Government of any cases of suspected or active TB or any other highly communicable diseases such as Severe Acute Respiratory Syndrome (SARS), Avian Flu, Methicillin-Resistant Staphylococcus Aureus (MRSA), Chicken Pox, etc., which might affect scheduled transports or productions so that protective measures can be taken by the Federal Government.

When a federal detainee is being transferred and/or released from the Facility, they will be provided with seven (7) days of prescription medication which will be dispensed from the Facility. Medical records and the USM-553 must travel with the federal detainee. If the records are maintained at a medical contractor's facility, it is the Local Government's responsibility to obtain them before a federal detainee is moved.

Federal detainees may be charged a medical co-payment by the Local Government in accordance with the provisions of Title 18, USC Section 4013(d). The Federal Government is not responsible for medical co-payments and cannot be billed for these costs even for indigent federal detainees.

Receiving and Discharge of Federal Detainees

The Local Government agrees to accept federal detainees only upon presentation by a law enforcement officer of the Federal Government or a USMS designee with proper agency credentials

The Local Government shall not relocate a federal detainee from one facility under its control to another facility not described in this Agreement without permission of the

Agreement Number 51-99-0117

Federal Government. Additional facilities within the same Agreement shall be identified in a modification.

The Local Government agrees to release federal detainees only to law enforcement officers of the authorized Federal Government agency initially committing the federal detainee (i.e., Drug Enforcement Administration (DEA), Immigration and Customs Enforcement (ICE), etc.) or to a Deputy United States Marshal (DUSM) or USMS designee with proper agency credentials. Those federal detainees who are remanded to custody by a DUSM may only be released to a DUSM or an agent specified by the DUSM of the Judicial District.

USMS federal detainees sought for a state or local court proceeding must be acquired through a Writ of Habeas Corpus or the Interstate Agreement on Detainers and then only with the concurrence of the jurisdictional United States Marshal (USM).

Optional Guard/Transportation Services to Medical Facility

If Medical Facility in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for federal detainees housed at the Facility to and from a medical facility for outpatient care, and transportation and stationary guard services for federal detainees admitted to a medical facility.

These services should be performed by at least two (2) armed qualified law enforcement or correctional officer personnel. Criteria as specified by the County Entity running the facility. In all cases, these are part or a full-time Law Enforcement Officer (LEO) or Correctional Officers (CO) that have met the minimum training requirements.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirement for security, federal detainee monitoring, visitation, and contraband control.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #14 on page one (1) of this Agreement. After thirty-six (36) months, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Optional Guard/Transportation Services to U.S. Courthouse

If U.S. Courthouse in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for federal detainees housed at its facility to and from the U.S. Courthouse.

Agreement Number 51-99-0117

These services should be performed by at least two (2) armed qualified law enforcement or correctional officer personnel. Criteria as specified by the County Entity running the facility. In all cases, these are part or a full-time Law Enforcement Officer (LEO) or Correctional Officers (CO) that have met the minimum training requirements.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirement for security, federal detainee monitoring, and contraband control.

Upon arrival at the courthouse, the Local Government's transportation and escort guard will turn federal detainees over to a DUSM only upon presentation by the deputy of proper law enforcement credentials.

The Local Government will not transport federal detainees to any U.S. Courthouse without a specific request from the USM or their designee who will provide the federal detainee's name, the U.S. Courthouse, and the date the federal detainee is to be transported.

Each federal detainee will be restrained in handcuffs, waist chains, and leg irons during transportation unless otherwise authorized by the USMS.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #14 on page one (1) of this Agreement. After thirty-six (36) months, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Optional Guard/Transportation Services to Justice Prisoner and Alien Transportation System (JPATS)

If JPATS in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for federal detainees housed at its facility to and from JPATS.

These services should be performed by at least two (2) armed qualified law enforcement or correctional officer personnel. Criteria as specified by the County Entity running the facility. In all cases, these are part or a full-time Law Enforcement Officer (LEO) or Correctional Officers (CO) that have met the minimum training requirements.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirements for security, federal detainee monitoring, and contraband control.

Agreement Number 51-99-0117

Upon arrival at JPATS, the Local Government's transportation and escort guards will turn federal detainees over to a DUSM only upon presentation by the deputy of proper law enforcement credentials.

The Local Government will not transport federal detainees to the airlift without a specific request from the USM who will provide the federal detainee's name, location (district), and the date the federal detainee is to be transported.

Each federal detainee will be restrained in handcuffs, waist chains, and leg irons during transportation.

If an hourly rate for these services has been agreed upon to reimburse the Local Government, it will be stipulated on in block #14 on page one (1) of this Agreement. After thirty-six (36) months, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Special Notifications

The Local Government shall notify the Federal Government of any activity by a federal detainee which would likely result in litigation or alleged criminal activity.

The Local Government shall immediately notify the Federal Government of an escape of a Federal detainee. The Local Government shall use all reasonable means to apprehend the escaped Federal detainee and all reasonable costs in connection therewith shall be borne by the Local Government. The Federal Government shall have primary responsibility and authority to direct the pursuit and capture of such escaped Federal detainees. Additionally, the Local Government shall notify the Federal Government as soon as possible when a Federal detainee is involved in an attempted escape or conspiracy to escape from the Facility.

In the event of the death or assault or a medical emergency of a Federal detainee, the Local Government shall immediately notify the Federal Government.

Special Management Inmates and Suicide Prevention

The Local Government shall have written policy, procedure, and practice require that all special management inmates are personally observed by a correctional officer twice per hour, but no more than 40 minutes apart, on an irregular schedule. Inmates who are violent or mentally disordered or who demonstrate unusual or bizarre behavior receive more frequent observation; suicidal inmates are under constant observation.

Agreement Number 51-99-0117

The Local Government shall have a comprehensive suicide-prevention program in place incorporating all aspects of identification, assessment, evaluation, treatment, preventive intervention, and annual training of all medical, mental health, and correctional staff.

Prisoner Rape Elimination Act (PREA)

The Facility must post the Prisoner Rape Elimination Act brochure/bulletin in each housing unit of the Facility. (See Page 13.) The Facility must abide by all relevant PREA regulations.

Service Contract Act

This Agreement incorporates the following clause by reference, with the same force and effect as if it was given in full text. Upon request, the full text will be made available. The full text of this provision may be accessed electronically at this address: <http://www.dol.gov/oasam/regs/statutes/351.htm>.

Federal Acquisition Regulation Clause(s):

52.222-41 Service Contract Act of 1965, as Amended (July 2005)

52.222-42 Statement of Equivalent Rates for Federal Hires (May 1989)

52.222-43 Fair Labor Standards Act and the Service Contract Act – Price Adjustment (Multiyear and Option Contracts) (May 1989)

The current Local Government wage rates shall be the prevailing wages unless notified by the Federal Government.

If the Department of Labor Wage Determination block #13b on page one (1) of this Agreement is checked, the Local Government agrees, in accordance with FAR PART 52.222.43 (f), must notify the Federal Government of any increase or decrease in applicable wages and fringe benefits claimed under this clause within 30 days after receiving a new wage determination.

Per-Diem Rate

The Federal Government will use various price analysis techniques and procedures to ensure the per-diem rate established by this Agreement is considered a fair and reasonable price. Examples of such techniques include, but are not limited to, the following:

1. Comparison of the requested per-diem rate with the independent Federal Government estimate for detention services, otherwise known as the Core Rate;

Agreement Number 51-99-0117

2. Comparison with per-diem rates at other state or local facilities of similar size and economic conditions;
3. Comparison of previously proposed prices and previous Federal Government and commercial contract prices with current proposed prices for the same or similar items;
4. Evaluation of the provided jail operating expense information;

The firm-fixed per-diem rate for services is stipulated in block #12 on page (1) of this agreement, and shall not be subject to adjustment on the basis of **Dona Ana County's** actual cost experience in providing the service. The per-diem rate shall be fixed for a period from the effective date of this Agreement forward for thirty-six (36) months. The per-diem rate covers the support of one Federal detainee per "Federal detainee day", which shall include the day of arrival, but not the day of departure.

After thirty-six (36) months, if a per-diem rate adjustment is desired, the Local Government shall submit a request through the Office of the Federal Detention Trustee's (OFDT) electronic Intergovernmental Agreements (eIGA) area of the Detention Services Network (DSNetwork). All information pertaining to the Facility on the DSNetwork will be required before a new per-diem rate will be considered.

Billing and Financial Provisions

The Local Government shall prepare and submit for certification and payment, original and separate invoices each month to each Federal Government component responsible for Federal detainees housed at the Facility.

Addresses for the components are:

United States Marshals Service
District of New Mexico
Pete V. Domenici U.S. Courthouse
333 Lomas Blvd., NW, Suite 180
Albuquerque, NM 87102
(505) 346-6400

Bureau of Prisons
Community Corrections Office
727 East Cesar E. Chavez Boulevard
Suite B-138
San Antonio, TX 78206
(210) 472-6225

Agreement Number 51-99-0117

**Immigration and Customs Enforcement
El Paso Field Office
1545 Hawkins Boulevard
El Paso, TX 79925
(915) 225-0885**

To constitute a proper monthly invoice, the name and address of the Facility, the name of each Federal detainee, their specific dates of confinement, the total days to be paid, the appropriate per diem rate as approved in the Agreement, and the total amount billed (total days multiplied by the per-diem rate per day) shall be listed, along with the name, title, complete address, and telephone number of the Local Government official responsible for invoice preparation. Additional services provided, such as transportation and guard services, shall be listed separately and itemized.

Nothing contained herein shall be construed to obligate the Federal Government to any expenditure or obligation of funds in excess of, or in advance of, appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. 1341.

Payment Procedures

The Federal Government will make payments to the Local Government at the address listed in block #6 on page one (1) of this Agreement, on a monthly basis, promptly, after receipt of an appropriate invoice.

Hold Harmless

It is understood and agreed that the Local Government shall fully defend, indemnify, and hold harmless the United States of America, its officers, employees, agents, and servants, individually and officially, for any and all liability caused by any act of any member of the Local Government or anyone else arising out of the use, operation, or handling of any property (to include any vehicle, equipment, and supplies) furnished to the Local Government in which legal ownership is retained by the United States of America, and to pay all claims, damages, judgments, legal costs, adjuster fees, and attorney fees related thereto. The Local Government will be solely responsible for all maintenance, storage, and other expenses related to the care and responsibility for all property furnished to the Local Government.

Disputes

Disputes, questions, or concerns pertaining to this Agreement will be resolved between appropriate officials of each party. Both the parties agree that they will use their best efforts to resolve the dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

Agreement Number 51-99-0117

Inspection of Services

Inspection standards for detainees may differ among authorized agency users. The Local Government agrees to allow periodic inspections by Federal Government inspectors, to include approved Federal contractors, in accordance with the Core Detention Standards required by any or all of the Federal authorized agency users whose detainees may be housed pursuant to this Agreement. Findings of the inspections will be shared with the Facility administrator in order to promote improvements to Facility operations, conditions of confinement, and levels of services.

Modifications

For all modifications except for full or partial terminations, either party may initiate a request for modification to this Agreement in writing. All modifications negotiated will be effective only upon written approval of both parties.

Litigation

The Federal Government shall be notified, in writing, of all litigation pertaining to this Agreement and provided copies of any pleadings filed or said litigation within five (5) working days of the filing.

The Local Government shall cooperate with the Federal Government legal staff and/or the United States Attorney regarding any requests pertaining to Federal Government or Local Government litigation.

Agreement Number 51-99-0117

Rape Elimination Act Reporting Information

SEXUAL ASSAULT AWARENESS

This document is requested to be posted in each Housing Unit Bulletin Board at all Contract Detention Facilities. This document may be used and adapted by Intergovernmental Service Agreement Providers.

While detained by the Department of Justice, United States Marshals Service, you have a right to be safe and free from sexual harassment and sexual assaults.

Definitions

A. Detainee-on-Detainee Sexual Abuse/Assault

One or more detainees engaging in or attempting to engage in a sexual act with another detainee or the use of threats, intimidation, inappropriate touching or other actions and/or communications by one or more detainees aimed at coercing and/or pressuring another detainee to engage in a sexual act.

B. Staff-on-Detainee Sexual Abuse/Assault

Staff member engaging in, or attempting to engage in a sexual act with any detainee or the intentional touching of a detainee's genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desires of any person. Sexual abuse/assault of detainees by staff or other detainees is an inappropriate use of power and is prohibited by DOJ policy and the law.

C. Staff Sexual Misconduct is:

Sexual behavior between a staff member and detainee which can include, but is not limited to indecent, profane or abusive language or gestures and inappropriate visual surveillance of detainees.

Prohibited Acts

A detainee, who engages in inappropriate sexual behavior with or directs it at others, can be charged with the following Prohibited Acts under the Detainee Disciplinary Policy.

- Using Abusive or Obscene Language
- Sexual Assault
- Making a Sexual Proposal
- Indecent Exposure
- Engaging in Sex Act

Detention as a Safe Environment

While you are detained, no one has the right to pressure you to engage in sexual acts or engage in unwanted sexual behavior regardless of your age, size, race, or ethnicity. Regardless of your sexual orientation, you have the right to be safe from unwanted sexual advances and acts.

Confidentiality

Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have the need to know in order to make decisions concerning the detainee-victim's welfare and for law enforcement investigative purposes.

Report All Assaults!

If you become a victim of a sexual assault, you should report it immediately to any staff person you trust, to include housing officers, chaplains, medical staff, supervisors or Deputy U.S. Marshals. Staff members keep the reported information confidential and only discuss it with the appropriate officials on a need to know basis. If you are not comfortable reporting the assault to staff, you have other options:

Agreement Number 51-99-0117

- * Write a letter reporting the sexual misconduct to the person in charge or the United States Marshal. To ensure confidentiality, use special (Legal) mail procedures.
- * File an Emergency Detainee Grievance - If you decide your complaint is too sensitive to file with the Officer in Charge, you can file your Grievance directly with the Field Office Director. You can get the forms from your housing unit officer, or a Facility supervisor.
- * Write to the Office of Inspector General (OIG), which investigates allegations of staff misconduct. The address is: Office of Inspector General, U.S. Department of Justice, 950 Pennsylvania Ave. Room 4706, Washington, DC. 20530
- * Call, at no expense to you, the Office of Inspector General (OIG). The phone number is 1-800-869-4499.

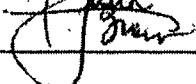
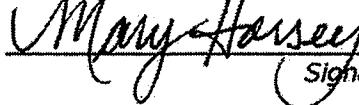
Individuals who sexually abuse or assault detainees can only be disciplined or prosecuted if the abuse is reported.

A publication of the Office of the
Federal Detention Trustee
Washington, DC

Published February 2008

**U. S. Department of Justice
United States Marshals Service**

Modification of Intergovernmental Agreement

1. Agreement No. 51-99-0117	2. Effective Date January 1, 2015	3. Facility Code(s) 6BJ	4. PREA-ACA Modification	5. DUNS No. N/A
6. Issuing Federal Agency United States Marshals Service Prisoner Operations Division Office of Detention Services CS-3, 5 th Floor Washington, DC 20530-1000		7. Local Government Dona Ana County Jail 1850 Copper Loop Las Cruces, NM 88005		
8. Appropriation Data 15X1020		9. Per-Diem Rate \$62.00	10. Guard/Transportation Hourly Rate \$18.00	
11. EXCEPT AS PROVIDED SPECIFICALLY HEREIN, ALL TERMS AND CONDITIONS OF THE IGA DOCUMENT REFERRED TO IN BLOCK 1, REMAIN UNCHANGED. TERMS OF THIS MODIFICATION: THE PURPOSE OF THIS MODIFICATION IS TO ADD THE PRISON RAPE ELIMINATION ACT (PREA) AND THE AFFORDABLE CARE ACT TO THE CURRENT IGA (SEE PAGE 2-4). The Facility must post the Prison Rape Elimination Act brochure/bulletin in each housing unit of the Facility. (See Attachment) The Facility must abide by all relevant PREA regulations.				
NO OTHER TERMS OR CONDITIONS OF THIS AGREEMENT ARE AFFECTED.				
12. INSTRUCTIONS TO LOCAL GOVERNMENT FOR EXECUTION OF THIS MODIFICATION: A. <input checked="" type="checkbox"/> LOCAL GOVERNMENT IS NOT REQUIRED TO SIGN THIS DOCUMENT				
B. <input type="checkbox"/> LOCAL GOVERNMENT IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN ALL COPIES TO U. S. MARSHAL				
13. APPROVALS				
A. LOCAL GOVERNMENT  Signature County Manager TITLE		B. FEDERAL GOVERNMENT  Signature Grant Specialist TITLE 1/13/15 DATE		

**U. S. Department of Justice
United States Marshals Service**

Modification of Intergovernmental Agreement

Agreement Number: 51-99-0117

Page 2 of 4

Rape Elimination Act Reporting Information

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One or more detainees engaging in or attempting to engage in a sexual act with another detainee or the use of threats, intimidation, inappropriate touching or other actions and/or communications by one or more detainees aimed at coercing and/or pressuring another detainee to engage in a sexual act.

B. Staff-on-Detainee Sexual Abuse/Assault

Staff member engaging in, or attempting to engage in a sexual act with any detainee or the intentional touching of a detainee's genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desires of any person. Sexual abuse/assault of detainees by staff or other detainees is an inappropriate use of power and is prohibited by DOJ policy and the law.

C. Staff Sexual Misconduct is:

Sexual behavior between a staff member and detainee which can include, but is not limited to indecent, profane or abusive language or gestures and inappropriate visual surveillance of detainees.

Prohibited Acts

A detainee, who engages in inappropriate sexual behavior with or directs it at others, can be charged with the following Prohibited Acts under the Detainee Disciplinary Policy.

- Using Abusive or Obscene Language
- Sexual Assault
- Making a Sexual Proposal
- Indecent Exposure
- Engaging in Sex Act

Detention as a Safe Environment

While you are detained, no one has the right to pressure you to engage in sexual acts or engage in unwanted sexual behavior regardless of your age, size, race, or ethnicity. Regardless of your sexual orientation, you have the right to be safe from unwanted sexual advances and acts.

Agreement Number: 51-99-0117

Page 3 of 4

Confidentiality

Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have the need to know in order to make decisions concerning the detainee-victim's welfare and for law enforcement investigative purposes.

Report All Assaults!

If you become a victim of a sexual assault, you should report it immediately to any staff person you trust, to include housing officers, chaplains, medical staff, supervisors or Deputy U.S. Marshals. Staff members keep the reported information confidential and only discuss it with the appropriate officials on a need to know basis. If you are not comfortable reporting the assault to staff, you have other options:

- Write a letter reporting the sexual misconduct to the person in charge or the United States Marshal. To ensure confidentiality, use special (Legal) mail procedures.
- File an Emergency Detainee Grievance - If you decide your complaint is too sensitive to file with the Officer in Charge, you can file your Grievance directly with the Field Office Director. You can get the forms from your housing unit officer, or a Facility supervisor.
- Write to the Office of Inspector General (OIG), which investigates allegations of staff misconduct. The address is: Office of Inspector General, U.S. Department of Justice, 950 Pennsylvania Ave. Room 4706, Washington, DC. 20530
- Call, at no expense to you, the Office of Inspector General (OIG). The phone number is 1-800-869-4499.

Individuals who sexually abuse or assault detainees can only be disciplined or prosecuted if the abuse is reported.

A publication of the Office of the
Federal Detention Trustee
Washington, DC

Published February 2008

**U. S. Department of Justice
United States Marshals Service**

Modification of Intergovernmental Agreement

Agreement Number:51-99-0117

Page 4 of 4

Affordable Care Act

The Local Government shall provide Federal detainees, upon release of custody, information regarding the Affordable Care Act, The Affordable Care Act website is located at <http://www.hhs.gov/opa/affordable-care-act/>.



**FACILITY
NEEDS ASSESSMENT REVIEW (NAR)
FOR THE
DONA ANA COUNTY
COMMISSION**

February 29, 2016

Restricted Document

EXECUTIVE SUMMARY

Global Corrections Group, LLC has over 100 years of knowledge and expertise directing, managing and ensuring the Constitutional compliance of numerous Federal, State and County Facilities throughout the United States. Global Corrections Group uses, as the foundational standard, the Federal Performance Based Detention Standards, dated April, 2014. The Federal Performance Based Detention Standards are based on the American Correctional Association Standards and are designed to establish the performance level required by the government to meet the federal detention contract requirements (Federal Acquisition Regulations, Part 46).

Global Corrections Group uses the Detention Pre-Certification model which consists of three (3) phases that involve Facility Needs/Risk Assessment, Pre-Certification, and After-Care. This contract for services is for Phase 1 of this model. The Phase I Facility Review Needs Assessment consists of deploying a highly qualified team of industry experts to Dona Ana County to provide a facility needs assessment based on a comprehensive review of operational procedures, physical plant operations, State and Federal standards for jail and detention operations.

Upon completion of the Review, the Team shall provide a detailed report for the Dona Ana County Commission and County Manager which outlines findings and recommendations. The deliverables include a comprehensive document outlining Facility Review findings and Needs Assessment detailing compliance violations of procedures and practices that deviate from the Federal Performance Based Detention Standards and Prison Rape Elimination Act for the safe, secure, and humane, confinement of Federal prisoners.

FACILITY FACTS

The Dona Ana County Detention Center (DACDC) is owned and operated by Dona Ana County in Las Cruces, New Mexico. The DACDC was built in 1996 as a 134,311 square foot facility with an additional 33,814 square feet added to house detainees of multi-classifications from the State, County and Juveniles.

On April 1, 2013, the United States Marshal Service entered into an agreement with DACDC to house Federal detainees at a rate of \$62.00 per bed, per day. This agreement includes inside and outside (pre-approved) Medical care. The DACDC provides court transportation that is about 2.7 miles from the Federal courthouse. They receive mileage reimbursement at the General Services Agency Federal Travel Regulation Rate. Currently, DACDC is not under any court orders and have six (6) pending lawsuits.

The DACDC has a rated capacity of 729 beds which include 598 adult male beds and 96 adult female beds. Current Juveniles are housed in the adult facility separated by sight and sound until renovations are completed in the Juvenile building. During the NAR there were, on an average, 26 federal females, 266 federal males, 1 state female, 13 state males, 63 county female detainees and 310 county male detainees for an average daily population of 679. Additionally, there were 2 juvenile females and 14 male juveniles for an average daily population of 16. This facility has open bay, closed cell 4 bunk beds and special housing Pods. The facility Pods separately house State, Federal and County detainees with the exception of the female Pods that mix the various jurisdictions.

All meals are delivered from a satellite in the Special Housing individual cells and to the general population housing Pods where meals are consumed in the common area, with tables located therein and, in some cases, in the cells, due to lack of seating space. All Pods have access to indoor and outdoor recreation areas. The facility is compliant with the American Disabilities Act (ADA), however, due to additional Medical conditions, most detainees are housed in the Medical Department.

NEEDS ASSESSMENT REPORT

The following report, provides a comprehensive review identifying compliance and non-compliance in the areas of Administration and Management, Security and Control, Mental Health, Medical and Dental, Safety and Sanitation and PREA. This report allows the NAR Team and Facility staff to identify and develop corrective interventions, train personnel, assess progress, develop SCORECards©, monitor progress, conduct a comprehensive review, implement perpetual audit systems and establish administrative oversight to ensure offenders are housed in safe, secure, humane and Constitutionally compliant housing conditions.

During the week of February 12, 2016 the NAR team toured the facility and was present on all shifts to observe operations. The team reviewed relevant Policies, Operational Procedures, Emergency Plans, Post Orders and documentation. The team conducted numerous interviews with Detention Officers, Supervisors, Management and Administration Staff. Detainee and staff interviews were conducted to establish perceptions regarding inmate treatment, the safety of the environment and overall facility procedures and operations. The Staff was professional and responsive to the Team's requests for information. Both Administrative and Management staff believe adequate systems of control are in place to ensure a safe work environment. However, Staff inconsistency in enforcing Policies is a common theme.

The NAR team observations and interviews with the Detainee population indicated they are basically satisfied with their living conditions and believe they are being housed safely. Detainee complaints range from not being provided undergarments, facility sanitation, availability of books in both the detainee Law and Leisure library and Staff inconsistencies in enforcing facility Policies and Procedures.

SUMMARY OF RATINGS SYSTEMS

Good - The level of performance exceeds the requirements of the FPBDS. Policies and procedures for achieving the standards are documented, specific to the mission of the facility and are communicated to the staff. Deficiencies are minimal and/or do not affect the performance of the area

Acceptable - Adequate resources, policies, procedures, and processes are in place and working to achieve the standard. While the overall functional area is operating in an acceptable manner, one or more subparts may be deficient and require additional resources, policy clarifications, or changes in processes or procedures to fully achieve the standard.

Deficient - Adequate resources, policies, procedures, or processes are either not in place or not sufficient.

At-Risk - The basic requirements of the function are not being met due to problems identified with resources, policies, procedures, or processes.

Following each narrative, are verbatim sections of the Federal Performance Based Detention Standards, used as the mandatory criteria for housing federal adult detainees. Accompanying these are the primary assessments of 'Acceptable' or 'Deficient, based on the Facilities Needs Assessment Review conducted February, 2016. Subsequent analysis reflects the specific FPBDS criteria addressed with a sub-rating of 'Compliant or 'Non-Compliant'. **Regarding FINDINGS, herein, only areas of Non-Compliance are listed in the NAR report.** Audit Tools used are the Federal Performance Based Detention Standards (F.P.B.D.S.) [April, 2014] and the Prison Rape Elimination Act 28 C.F.R. § 115.5.

DONA ANA ASSESSMENT RATINGS

On Friday, February 12, 2016, an oral close-out was conducted by Claudia Hill-Bickham, Project Leader for the Global Corrections Group. Participants at the closeout were Danieray Johnson, Vice President, Global Corrections Group, Julia Brown, Esq., County Manager, Vicki Hooser, Capt./Acting Detention Director, Justin Porter, Capt., Bryan Baker; NAR Team members, Harold J. Field, Food Service SME, Jean L. Moltz, Health/Medical SME, Michelle Van Dusen, Safety SME, James R. Preston, Security SME, Russell Haas, Security SME, and Kenneth Arnold, Prison Rape Elimination Act (PREA) SME.

Upon completion of a comprehensive Needs Assessment Review (NAR), the facility was rated the following:

1. Administration and Management	Deficient
2. Health, Mental and Dental	Acceptable
3. Security and Control	Deficient
4. Food Service	Deficient
5. Safety and Sanitation	Acceptable
6. Services and Programs	Deficient
7. Prison Rape Elimination Act (PREA)	Deficient

Global Corrections Group continues to work with the facility Administration and the County Manager to provide the highest quality of correction/detention management consulting services to ensure detainees are housed a facility that is cost effective, safe, secure and humane for the lawful confinement of prisoners.

NEEDS ASSESSMENT REVIEW FINDINGS

1. Administration and Management

Deficient

The DACDC operates under the direction of the Dona Ana County Detention Center Facility Administration Policy Manual. The facility Policies and Procedures Manuals have an annual review cycle by the facility administration, however, all of the policy documentation did not reflect they were current during the NAR. There is some confusion as to various revision dates on the policies versus the review signature date by the Facility Director. Interviews with Training staff and current facility staff revealed facility policies are available through a data base system within the facility. A Policy Binder is not available for Staff in the facility. Interviews and a review of the Employee Training Department

Forms show employees sign that “failing to comply with Policies and Procedures, rules or regulations, will be a cause to face disciplinary action that may include termination” at the beginning of the training. The DACDC has a Staff/Contractor Orientation Training program in place. The program provides thorough and comprehensive training for initial training and annual refresher training. A Review of the facility’s Training Staff files indicates that Staff has the proper training certifications. Staff /Contractors receive the initial 40 hours of training and all areas of training are covered. However, for the annual subsequent 40 hours of training not all required areas of training are covered.

The DACDC has a Facility Administration Organizational Chart. The Policy does not state the chart will be reviewed annually and the Policy has a December, 2014 Facility Director’s signature review date, but also references December, 2013.

The facility does not have a Detainee Admission and Orientation (A&O) Program. Detainees receive a Detainee Handbook during the Intake process which is printed in English and Spanish. However, the print is too small for most inmates to be able to read it. The Handbook does not include transportation options for detainee visitors. Additionally, unless the detainee self-admits they are low functioning, cannot read or are visually impaired, they are not provided options for understanding the Detainee Handbook Rules and Regulations. The detainee signs that he/she acknowledges the answers to questions provided to the Classification Officer are correct and accurate and that they are receiving an initial care package containing hygiene items and writing materials.

Review of documentation reveals there is no formal internal Quality Assurance program or a Quality Assurance Manager at DACDC. A Captain submits a Memo to the Facility Director stating an audit of a particular document and/or area was conducted. These audits are not conducted via a schedule or clearly identify areas to be audited. Corrective actions are not documented.

A review of the facility policy on “Records and Forms” and Post Order 027 Classification does not identify specific documentation to be placed in the Detainee Records. Interviews with the Classification and Disposition Staff provided information regarding what documents were to be placed into the Detainee’s file. However, a sample review of the Detainee Files revealed confusion regarding the placement of Detainee Work Assignment Forms not found in the files.

Detainees are not issued the required linen per facility policy for Hygiene, Property Storage, or Cleaning. During the NAR, detainees were observed signing for their personal property.

No Special Needs detainees were observed housed in the General Population Pods during the NAR, however, DACDC facility information indicates there are cells in each Pod that are accessible to disabled persons. Assistance bars, for disabled persons were observed in the Pod shower areas.

Quality Control:

Non-Compliant

A.2.1 An Internal Quality Control Plan requires an annual review of the facility operations to ensure compliance with facility Policies and Procedures. Corrective measures are identified and completed.

A.2.2 At a minimum, the Internal Quality Control Plan addresses the following areas:
A.2.2.a Detainee Health Care